

JAN 22 1961

Approved For Release 2000/04/13 : CIA-RDP70-00058R000200150182-2

Erosion of Individual Liberties: Present Crisis Could Be Decisive

**Profound Faith of Militant Supreme Court Minor-
ity to Bill of Rights Offers Safeguard for Liberals
— Bold and Vigorous Dissents Made in Decisions
Which Involve First Amendment Cases.**

The increasing threat to individual liberties posed by legislative and judicial interpretations of the First Amendment to the Constitution is causing growing concern among those who regard the Bill of Rights as the bulwark of American freedoms. Marquis W. Childs of the Post-Dispatch Washington Bureau examines and reports on this critical situation in a series of articles of which this is the first.

By MARQUIS W. CHILDS

A Washington Correspondent of the Post-Dispatch.

© 1961, St. Louis Post-Dispatch.

WASHINGTON, Jan. 21.

"IF THERE BE ANY among us who would wish to dissolve this union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it. I know, indeed, that some honest men fear that a republican government cannot be strong; that this government is not strong enough. But would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm, on the theoretic and visionary fear that this government, the world's best hope, may by possibility want energy to preserve itself?"

Those words were spoken on March 4, 1800 by another President as he took the oath of office to defend and protect the Constitution of the United States. Thomas Jefferson, the third President, was regarded by the rich and wellborn of his time as a dangerous radical. The last thing they could have envisioned for him was the marble shrine to his memory here in the Capitol.

For Jefferson spoke for liberty as against the philosophy of Alexander Hamilton and the Federalists who were the voice of the propertied interests determined to restrain the individual. This is a conflict that has never ceased to agitate American life, the rhythm of its rise and fall corresponding to the periods of turbulence and calm that have marked our history.

In his address this week marking the end of 40 years as soldier and as President, Dwight D. Eisenhower uttered a solemn warning to the American people to guard their liberties against the encroachment of the vast military-industrial complex that is now in peacetime America. He repeated what former Presidents have said before him: that only through constant vigilance can

Jefferson, James Madison and others of the Founding Fathers believed it was supremely important to add a Bill of Rights to the Constitution after that great charter had been agreed to through a series of compromises in Philadelphia in 1786. The First Amendment says:

"CONGRESS SHALL MAKE no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

We are currently at one of the testing times when the rights of the individual as against the rights of the state are gravely at issue. The quotation from Jefferson's inaugural address was taken from a dissenting opinion of Justice Hugo Black of the Supreme Court. His dissents have been expressed in a series of cases involving the rights of free speech, free press and religious liberty under the First Amendment to the Constitution.

They speak with a deep and sometimes passionate conviction of the individual and his freedom to believe and to utter his beliefs in association with others despite the

In his dissenting opinions in recent years Justice Black has several times spoken for Justices William J. Brennan Jr. and William O. Douglas and the Chief Justice, Earl Warren. The others in this minority of four also have written boldly and vigorously in dissenting with the majority of five members of the court. The history of the court shows that the views of such a minority have often in later and calmer times become the opinion of the court itself.

But this is a division at least as deep as any in the past and it occurs in the midst of a world crisis when the very survival of the nation seems to many to be at stake. The central issue is whether the individual has a right to privacy in his beliefs and his associations or whether, as the majority of the court has said, this is overbalanced by the right of the state to preserve itself against the threat of the Communist conspiracy.

IN THE DECISION in the Watkins case, written by the Chief Justice and handed down in June 1957, the court by a vote of 7 to 1 found for the individual and against the power of the House Un-American Activities Committee to compel him to disclose past associations. Two years later in the Barenblatt case, the court, by 5 to 4, decided in favor of the Un-American Activities Committee's authority to compel testimony on political beliefs and past associations and against the right of the individual to refuse such testimony under the First Amendment. John T. Watkins, a labor organizer, was cleared of the charge of contempt of the committee while Lloyd Barenblatt, an instructor at Vassar College, was sent to jail.

Whether this is the final answer only a bold prophet would say. More than 30 First Amendment cases are still to come before the Court. But there is a deep-seated feeling, both within the Court and among those concerned over civil liberties, that what is happening now may determine the long

time to come the fate of the individual in a society increasingly dominated by great concentrations of industry, labor and government.

In short, of all the conflicts that have periodically raged around the issue of liberty versus restraint, this could well be the final and decisive one. There are elements such as have never before complicated a question that in the past seemed one for Americans alone to answer. International Communism and nuclear weapons of mass annihilation on both sides of the great di-